

EXHIBIT B

From: Miller, Adam <adam.miller@orrick.com>

Sent: Wednesday, January 3, 2024 3:38 PM

To: Kevin Lavelle <KLavelle@rgrdlaw.com>

Cc: Foley, William J. <wfoley@orrick.com>; Talarides, Alex <atarides@orrick.com>; Dan Drosman <DanD@rgrdlaw.com>; Rachel Jensen <RachelJ@rgrdlaw.com>

Subject: RE: Cassava Sec. Litigation - October 12, 2023 Science article

EXTERNAL SENDER

Kevin, thank you for providing the proposed Supplement. As we indicated previously, Defendants intend to oppose your request for leave to file the Supplement on the ground that it would be futile. *See, e.g., Serafine v. Slayton*, 2021 WL 4442817, at *2 (W.D. Tex. Sept. 27, 2021) (“In determining whether to allow supplementation of pleadings under Rule 15(d), courts weigh . . . futility.”).

The Supplement seeks to enable Plaintiffs to recover damages based on the stock price drop following the publication of the *Science* article on October 12, 2023. To do so, Plaintiffs must show, among other things, that the *Science* article was a “corrective disclosure,” i.e., something that “reveal[s] the truth of the previously misleading statement” to the market. *Archdiocese of Milwaukee Supporting Fund, Inc. v. Halliburton Co.*, 597 F.3d 330, 336-37 (5th Cir. 2010).

In our view, the *Science* article is not a corrective disclosure, including because each of the issues addressed in the article have been the subject of repeated news coverage over a long period of time, not to mention being addressed in great detail by Plaintiffs’ own amended complaint in 2022. Additionally, we note that the article itself is completely unreliable; as the Supplement states, CUNY “stay[ed] the underlying inquiry into the allegations regarding Dr. Wang’s research” in response to the article, noting that “questions regarding the confidentiality and integrity of this investigation have been raised.” Accordingly, the *Science* article did not reveal any new information showing that Defendants’ prior statements were false. Thus, Plaintiffs cannot establish that the stock price drop at issue was caused by the revelation of any fraud in the article. As such, adding the proposed Supplement would be futile.

Please note that we are still researching and considering the issues your proposed Supplement has raised. We have provided this response in an effort to be cooperative and transparent, but we reserve the right to add to or modify these arguments as necessary. Please let me know if you would like to discuss further any of the above. Thank you.

Adam Miller
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From: Kevin Lavelle <KLavelle@rgrdlaw.com>
Sent: Wednesday, December 20, 2023 7:06 PM
To: Miller, Adam <adam.miller@orrick.com>
Cc: Foley, William J. <wfoley@orrick.com>; Talarides, Alex <atarides@orrick.com>; Dan Drosman <DanD@rgrdlaw.com>; Rachel Jensen <RachelJ@rgrdlaw.com>
Subject: RE: Cassava Sec. Litigation - October 12, 2023 Science article

[EXTERNAL]

Adam, as you requested, please find attached our current draft of the propose supplement. While we do not currently expect significant revisions to these allegations, we do reserve the right to further revise the supplement. Please provide us Defendants' position on the proposed supplement, including the grounds for their apparent position that the supplement is futile. We also look forward to the written response on the 12(f) issue.

-Kevin

From: Miller, Adam <adam.miller@orrick.com>
Sent: Friday, December 15, 2023 8:36 PM
To: Kevin Lavelle <KLavelle@rgrdlaw.com>
Cc: Foley, William J. <wfoley@orrick.com>; Talarides, Alex <atarides@orrick.com>; Dan Drosman <DanD@rgrdlaw.com>; Rachel Jensen <RachelJ@rgrdlaw.com>
Subject: RE: Cassava Sec. Litigation - October 12, 2023 Science article

EXTERNAL SENDER

Kevin, we would need to see the proposed supplemental pleading in order to decide whether or not to consent to it. Based on the brief description you've provided, we question whether such a supplemental pleading would be futile because you could not establish loss causation. But again, we would certainly consider it. As for the Rule 12(f) issue, we expect to have a written response to you next week. As I've indicated before, we will agree to extend the January 5 deadline if necessary. Thanks and have a good weekend.

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From: Kevin Lavelle <KLavelle@rgrdlaw.com>
Sent: Thursday, December 14, 2023 5:58 PM
To: Miller, Adam <adam.miller@orrick.com>
Cc: Foley, William J. <wfoley@orrick.com>; Talarides, Alex <atarides@orrick.com>; Dan Drosman <DanD@rgrdlaw.com>; Rachel Jensen <RachelJ@rgrdlaw.com>
Subject: Re: Cassava Sec. Litigation - October 12, 2023 Science article

[EXTERNAL]

Adam, we are proposing supplementing the operative complaint to add the October 12 disclosure under Rule 15(a) and/or (d). Please let us know if Defendants consent to such a motion. If you oppose, please let us know the grounds, so that we can meet and confer.

We'd also like to meet and confer on Plaintiffs' outstanding letter regarding various defenses raised in Defendants' Answer. As you know, the current deadline for a Rule 12(f) motion is January 5, so we would like to discuss the path forward on that issue well in advance of the deadline.

-Kevin

On Dec 14, 2023, at 7:19 AM, Miller, Adam <adam.miller@orrick.com> wrote:

EXTERNAL SENDER

Kevin, I'm not sure what you mean by "supplementing" the complaint. Do you mean you are asking us to consent to a motion seeking leave to amend the complaint? Or something different? Can you share with us more specific information about what you are proposing to do? Thanks.

Adam Miller
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<image001.png>

From: Kevin Lavelle <KLavelle@rgrdlaw.com>

Sent: Wednesday, December 13, 2023 1:26 PM

To: Miller, Adam <adam.miller@orrick.com>; Foley, William J. <wfoley@orrick.com>; Talarides, Alex <atarides@orrick.com>

Cc: Dan Drosman <DanD@rgrdlaw.com>; Rachel Jensen <RachelJ@rgrdlaw.com>

Subject: RE: Cassava Sec. Litigation - October 12, 2023 Science article

[EXTERNAL]

Adam, because Defendants dispute Plaintiffs' ability to seek damages at trial for the October 12 disclosure, please let us know if Defendants oppose Plaintiffs supplementing the operative complaint to include the October 12, 2023 article as a corrective disclosure. If Defendants do oppose, please include the reasons for Defendants' opposition in your response, so that the parties may meet and confer.

-Kevin

From: Miller, Adam <adam.miller@orrick.com>

Sent: Tuesday, December 12, 2023 7:57 AM

To: Kevin Lavelle <KLavelle@rgrdlaw.com>; Foley, William J. <wfoley@orrick.com>; Talarides, Alex <atarides@orrick.com>

Cc: Dan Drosman <DanD@rgrdlaw.com>; Rachel Jensen <RachelJ@rgrdlaw.com>

Subject: RE: Cassava Sec. Litigation - October 12, 2023 Science article

EXTERNAL SENDER

Kevin,

Defendants do object to any effort by Plaintiffs to recover damages for events not addressed in the Complaint.

Adam Miller

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<image001.png>

From: Kevin Lavelle <KLavelle@rgrdlaw.com>

Sent: Friday, December 8, 2023 3:47 PM

To: Foley, William J. <wfoley@orrick.com>; Talarides, Alex <atarides@orrick.com>; Miller, Adam <adam.miller@orrick.com>

Cc: Dan Drosman <DanD@rgrdlaw.com>; Rachel Jensen <RachelJ@rgrdlaw.com>

Subject: Cassava Sec. Litigation - October 12, 2023 Science article

[EXTERNAL]

Counsel,

Please let us know if Defendants dispute Plaintiffs' ability to seek damages at trial for the drop in Cassava's stock price that occurred following the October 12, 2023 *Science* article regarding the CUNY investigation, which occurred after the operative complaint had been filed, on the grounds that those events are not specifically alleged in the complaint.

-Kevin

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